



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

UNIVERSAL DME LLC

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-14-3702-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

August 21, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On 12/03/2013 we submitted our claims for payment to Tech Health in the amount of \$756.93...Our claims are now denied for timely filing...We should be paid for services rendered because we have submitted appropriate proof of timely filing."

Amount in Dispute: \$756.93

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual on 08/15/14 received a bill from Universal DME LLC...The requestor gave no rationale for the lateness of the bill."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 19, 2013	L1832	\$756.93	\$663.46

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the requirements for medical payments and denial by insurance carriers.
3. 28 Texas Administrative Code §134.203 sets out the fee guideline for durable medical equipment.
4. No explanations of benefits were provided.

Issues

1. Did Texas Mutual Insurance Company or an agent authorized under the applicable Texas Labor Code or Texas Insurance Code provisions take final action on the service in dispute?
2. Is reimbursement due?

Findings

1. TMIC in its position statement confirms that it received a medical bill for the service in dispute on August 15, 2014. As the insurance carrier, TMIC had a duty to take action on the disputed medical bill consistent with Title 28, Part 2, Chapter 133, Subchapter C. Specifically, 28 Texas Administrative Code §133.240 requires that:

(a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill...

(e) The insurance carrier shall send the explanation of benefits in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:

- (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

(f) The paper form of an explanation of benefits under subsection (e) of this section...shall include the following elements :....(9) insurance carrier's name and address; (12) diagnosis code; (the CPT, HCPCS, NDC, or other applicable product or service code; (17) (G) the adjustment reason code that conforms to the standards described in §133.500...

No documentation was found to support that an explanation of benefits that complies with the requirements of §133.240(e) and (f) was sent to the health care provider by the insurance carrier; however a letter dated July 28, 2014 from TechHealth to the requestor was found that indicates that payment was "denied" due to "untimely filing." The division finds that the letter fails to include all the elements required by §133.240(e), it also finds that TechHealth did not have the authority to perform medical bill review on the carrier's behalf for the following reasons.

As the carrier, TMIC has the ability to delegate medical bill processing to a third-party administrator. Any such delegation to TechHealth was required to have been made in accordance with Texas Labor Code §406.010, and corresponding Texas Insurance Code Chapter 4151, and Texas Administrative Rules §§7.1601-7.1618. No documentation was found to support that TMIC delegated medical bill processing to TechHealth in a manner consistent with the rules established for licensing, contracting, auditing, and reporting applicable to all administrators, including administrators with delegated duties in the workers' compensation system. Furthermore, review of the list of all licensed third-party administrators on the Texas Department of Insurance public webpage find that TechHealth is NOT a registered TPA. The division concludes that TechHealth was not authorized to perform bill review on TMIC's behalf.

The division concludes that the carrier failed to take final action on a complete medical bill. Furthermore, absent any evidence that TMIC raised defenses that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, including 28 Texas Administrative Code §133.240, the division concludes that the defenses presented in TMIC's position statement shall not be considered for review because those assertions constitute new defenses pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. As concluded above, the carrier in this case failed to take final action on the services in dispute during the medical billing process. Additionally, the defenses the carrier raised at medical fee dispute resolution are new defenses and cannot be considered in this review. The division therefore proceeds to resolve this dispute by adjudicating the payment under the applicable fee guideline. 28 Texas Administrative Code §134.203(d) sets out the fee guideline for durable medical equipment including the service in dispute L1832 RT. Rule §134.203 paragraph (d) states that "The MAR for Healthcare Common Procedure Coding System (HCPCS) Level II codes A, E, J, K, and L shall be determined as follows: (1) 125 percent of the fee listed for the

code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule.”

Review of the DMEPOS fee schedule found at www.cgsmedicare.com finds that the fee listed for L1832 is \$530.77. This amount multiplied by 125% results in a MAR of \$663.46.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$663.46.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS Texas Mutual Insurance Company to remit the amount of \$663.46 plus applicable accrued interest per 28 Texas Administrative Code §134.130 to the requestor, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	December 30, 2015
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.